

The 2007 General Elections: Overview of a System in Transition

From Seven Keys to Change: A Technical, Political and Legal Analysis of the 2007 Electoral Process

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I. Introduction and acknowledgements

This publication presents Part One of the report “Seven Keys to Change: A Technical, Political and Legal Analysis of the 2007 Guatemalan Electoral Process.” The report constitutes a natural extension of the concerted efforts by international and domestic actors to ensure the honesty and legitimacy of the 2007 elections. These were the first elections organized under the new standards established by reforms to the Law on Elections and Political Parties in 2004 and 2006, which affected the electoral model as well as the basic rules for the political party system.

The political objectives that give rise to electoral reform are transformed to a greater or lesser extent in the practical application of the reforms, and the desired results are not always achieved. There is no linear or unequivocal relationship between the two sides of the equation. For that reason, an analysis of the impact and results of certain legal reforms on key institutions such as the Supreme Electoral Tribunal and political parties is important for understanding lessons learned and ensuring a continuous effort toward the perfection of electoral democracy.

The analysis and evaluation of elections after their completion is not a frequent practice, nor is it in any way institutionalized. However, some Latin American countries, such as Panama, conduct joint evaluations between the electoral institution and political parties, and even convene an electoral reform commission to consider the results and create agreements on eventual modifications to the legal, regulatory and institutional framework.

Evaluating the way key actors organize and conduct an electoral process, using rigorous technical criteria is an important factor in the decision-making process. For that reason, the Soros Foundation Guatemala, the Dutch Institute for Multiparty Democracy, Association of Social Studies and Research (*Asociación de Investigación y Estudios Sociales, ASIES*), Association for Socio-Cultural Development, Organization, Services and Studies (*Asociación para el Desarrollo, la Organización, Servicios y Estudios Socioculturales, DOSES*), Latin American Faculty of Social Sciences-Guatemala (*Facultad Latinoamericana de Ciencias Sociales, FLACSO-Guatemala*) and the National Democratic Institute for International Affairs (NDI) designed this project to systematically analyze the election based on two fundamental questions: What made the 2007 elections different from the five previous general elections, and what concrete impact did the 2004 and 2006 electoral reforms have on the electoral process and on the behavior of the key actors?

To answer these questions, the authors analyzed seven key aspects of the electoral process, which constitute parts two through eight of the full report. These aspects, along with the authors of their corresponding sections of the report, were:

- The consistency and effectiveness of electoral law and its regulatory framework (César Conde Rada, Latin American Department of Social Sciences, FLACSO-Guatemala);
- The organizational, technical and logistical process of the elections (Paola Ortiz Loaiza and María Alejandra Erazo, Latin American Department of Social Sciences, FLACSO-Guatemala);
- Citizen participation in the elections (Ivonne Solórzano, Latin American Department of Social Sciences, FLACSO-Guatemala);

- Political parties' electoral behavior and institutional performance (Ligia Ixmucané Blanco, Association for Research and Social Studies ASIES);
- The system of political party and campaign financing (Alejandro Balsells and Míriam Gramajo, Association for Research and Social Studies ASIES);
- The media's electoral behavior and influence on the campaign (Gustavo Berganza, Silvia Sánchez and Carmen Castilla, Sociocultural Development, Organization, Services and Studies DOSES); and
- The electoral system and electoral districts (Carmen Ortiz and Javier Fortín, Association for Research and Social Studies ASIES).

These seven dimensions provide a reasonably comprehensive view of the 2007 electoral process. Methodologically, the analysis begins with the establishment of precise objectives and guiding questions for each dimension; the work was divided among the institutions to assure the quality of the research as well as its timely completion. ASIES was responsible for analyzing the party system, the financing system and the electoral system; FLACSO for the analysis of legal consistency, the TSE's work and the analysis of electoral participation; and DOSES for the media analysis from the perspective of media coverage, journalist behavior and opinion poll analysis. The technical coordination for the project was carried out by the NDI-Guatemala team.

The quality of the teams from each of the participating institutes deserves mention. From ASIES, Karin de Maldonado and Marco Antonio Barahona served as coordinators, with Ligia Blanco, Alejandro Balsells and Carmen Ortiz writing the sections on political parties, political financing and the electoral system, respectively. From FLACSO, Isabel Rodas served as the initial coordinator, and Virgilio Álvarez later assumed this role, with César Conde, Paola Ortiz and Ivonne Solórzano conducting studies on legal consistency, the TSE's behavior and electoral participation, respectively. From DOSES, Gustavo Berganza served as coordinator, and Silvia Sánchez and Carmen Castilla conducted the research. Also deserving mention is the active participation and support provided by Julio Donis of NDI, Otto Zeissig of nIMD and Renzo Rosal of the Soros Foundation, as well as the institutional and political supervision of Elena Diez-Pinto, director of the Soros Foundation, and Doris Cruz, representative of nIMD.

As noted above, this publication presents only Part One of the full report, intended as a general but not exhaustive overview of the subject matter. This section was translated and revised at NDI's Washington headquarters, with substantial assistance from Julio Donis at NDI's Guatemala office.

Finally, it is important to reiterate that this study has benefited from multiple projects supporting the elections, from the technical assistance programs implemented by IIDH/CAPEL and the OAS, to the international observation missions of the OAS and the European Union, as well as the domestic observations of Mirador Electoral, the Indigenous Mission for Electoral Observation, and others. These missions provided a foundation for the research conducted as a part of this project.

This effort is meant to complement, rather than replace, the work of various domestic actors and international organizations in the last elections. In that sense, like the final products of those efforts, this document and the full report are public goods, available to Guatemalan society for its study and consideration.

II. Overview of a system in transition

The 2007 Guatemalan general elections were different from any of the country's previous electoral processes. The distinct characteristics exhibited in 2007 were the result of partial yet important reforms to the legal framework regulating elections, the electoral system and the political party system, a framework that had been highly stable over its 23 years of existence. The reforms, passed in 2004 and 2006, addressed several persistent, fundamental issues that explain the current levels of electoral and party institutionalization:

- i. The high levels of centralization in the electoral model, while providing stability and certainty to elections, acted as a roadblock to citizen participation and influenced the parties' low geographical presence.
- ii. The problems of security and the ability to verify citizens in the personal documentation system whose foundation—the residency card (*cédula de vecindad*)—had demonstrated limitations in verifying personal identity and, as such, about the people who composed the electoral registry.
- iii. The political party system's low level of institutionalization was the result of a diverse combination of factors, including: a permissive legal framework regarding the creation of parties and conservation of parties' legal registration; a high level of dependency on private funds for party operations and for election campaigns; and a low level of oversight by independent, trained institutions.

These three characteristics are the expression of a fundamental contradiction in the development of Guatemala's electoral democracy. While the electoral system and organization have developed effectively, conferring security and confidence in the young democracy, the party system has demonstrated instability and a lack of institutionality. The various components of Guatemala's democracy have developed unequally: the strictly electoral dimension is more cohesive, but the party system displays marked institutional weakness. This, along with a lack of competence and effectiveness that have characterized the system of government, creates reasonable doubt about the sustainability of the democratic system and its ability to respond to the country's challenges. While laws cannot unilaterally change political realities, they can act as incentives or constraints that drive important actors to bring about this change. For that reason, electoral reform affects the structure of power relations, trying to conserve, adjust or transform them, not only in inter-party relations but in the overall relationship between citizens and the political system.

That being said, what substantive modifications did the 2004 and 2006 reforms introduce to the electoral organization, the electoral system and the political party system? And what did these reforms try to achieve in terms of the desired stability and development of Guatemala's electoral democracy? This summary tries to answer both questions by presenting a general overview of the report. For that reason, it borrows substantial elements from the report's other sections to give a complete picture of the 2007 electoral process and how it was influenced by the electoral reforms of 2004 and 2006. Whether or not this objective was achieved is the

author's responsibility, and does not speak to the quality of the report's other sections, which are the work of the various institutions and authors.

Reforms and their distinguishing features

The electoral reform addressed five principal dimensions: three relating to the electoral organization model and two relating to the party system.

The most decisive reform was the **decentralization of the Electoral Committees (*Juntas Receptoras de Votos*¹, JRVs)**, important not only as an attempt at geographical inclusivity, but also for the effect it had on all organizational aspects of the 2007 elections. Decentralization required the placement of JRVs in all locations with more than 500 registered voters, with the exception of those areas where for technical reasons or security purposes the Supreme Electoral Tribunal (*Tribunal Supremo Electoral*, TSE) did not consider it possible. It clearly aimed to reverse the centralization of the electoral organization inherited from the transition to democracy, itself a response to the legacy of electoral fraud in rural areas.

This reform focused on increasing the geographical inclusivity of the electoral organizations and the levels of electoral participation in order to increase the legitimacy of elections. The decentralization process had modestly positive effects on the turnout of the rural vote and geographical inclusivity of electoral system, however it created a difficult, large-scale technical adjustment process for the TSE and other institutions. Decentralization impacted crucial areas of the electoral process such as updating the electoral map, updating and cleaning up the electoral registry, administrative and logistical planning for Election Day, the number of election workers needed, and the system for transmitting results, to name only the most prominent. Politically, it facilitated the access of rural citizens to the polls in substantially more favorable conditions; technically, it subjected the TSE and the political parties to a different scale and type of work.

A second fundamental reform, which did not affect the 2007 elections, was the **creation of the personal identification document (*Documento Personal de Identificación*, DPI) and of the National Civil Registry (*Registro Nacional de las Personas*, RENAP)** as the institution responsible for administering the DPI. The creation of the DPI was the concrete outcome of a long effort to generate confidence not just in the electoral system, but in all national institutions; the problems of quality and accuracy of the information in the municipal civil registries, as well as the poor quality of the residency cards, created problems in verifying identity of all Guatemalans, including those on the voter registry. For that reason, the consolidation of civil registries in to a single database is a positive step, making it more feasible to correct various types of technical inconsistencies and issue new identity documents.

While the creation of the DPI was a step forward, assigning responsibility of this function to a new institution built from scratch cast doubts about its political viability and technical feasibility. Additionally, it implied a break from the framework of the Peace Accords, which envisioned the TSE as the institution with this responsibility. The decision to postpone the DPI's effective date until after the elections sought to attenuate the possible effects of this reform on the procedural rules in effect for 2007, but did not prevent difficulties from emerging due to the complex

¹ The *Juntas Receptoras de Votos* are local electoral committees which monitor and count the votes cast. There are typically several JRVs located at the same voting center.

institutional settings as the functions of civil registration and documentation are dispersed among 333 municipalities. An atmosphere of resistance to the change inherent in RENAP's creation accompanied the 2007 elections and caused, indirectly, a greater level of complexity in the organization of the elections.

Unfortunately, the electoral impact of the creation of the DPI and RENAP was lost when the Constitutional Court decided not to endorse the change in name of the Registry of Citizens (the original reform renamed it the Electoral Registry of Citizens), which was intended to eliminate the requirement of double registration to be able to vote: registering with the civil and local registry to obtain the residency card, and then with the Electoral Registry for voting purposes. This requirement, which constitutes one of the most important barriers to electoral participation, remained unresolved at the time of publication.

The third area of reforms concerned modifications to the **procedural rules of the political party system**; it included changes to the rules for legal party formation, to the electoral threshold or barrier and to the establishment of internal party leadership bodies, among others. The reforms in this area sought to reduce the number of political parties, trying to create incentives for stabilization of the party system, which is plagued by the frequent emergence and disappearance of political parties.

The fourth area of reforms was aimed at constructing **a system of political financing with more public support**, better regulation of private financing and a clear mandate for oversight. The reforms increased public financing from two quetzals (\$.25) per vote received to two U.S. dollars per vote, decentralized public financing, limited campaign expenditures and private contributions, mandated institutional changes within parties to improve their internal financial controls and administration, established a registry of donors and private donations and gave the TSE the authority to conduct oversight of private party financing. The practice of disbursing public financing in four annual amounts, which gives public support a permanent structure, was maintained. In general, the purpose of this set of reforms was to strengthen a system of mixed but primarily public financing. This reform was applied in two phases: all rules regarding private financing took effect before the 2007 election, and the public financing reform was implemented after the completion of the electoral process.

A fifth area of relevant reforms dealt with **adjustments to the electoral calendar**, shortening the length of the election campaign and moving up the election date. The abbreviation of the campaign is meant to reduce its cost and, consequently, parties' need to seek financing. Advancing the election date responded to the idea of lengthening the transition period between governments, which have been quite short given that elections normally require a second presidential round.

This summary, while not exhaustive, shows that the 2004-2006 electoral reforms introduced significant modifications to the party system and, to a lesser extent, the electoral system and the way that electoral institutions are organized to ensure the effective exercise of citizens' political rights. This was not a comprehensive reform, nor did it have the scope of the project that was originally proposed by the Electoral Reform Commission created by the Peace Accords. However, despite the issues with scope and coherence, the reform is generally beneficial for electoral and party institutionalization.

III. Impact of the reforms in specific areas

1. Consistency and effectiveness of the legal framework

The Law on Elections and Political Parties (*Ley Electoral y de Partidos Políticos*, LEPP), despite its positive aspects, has problems with balance, consistency and effectiveness.

The problems with balance refer to the fact that, although the LEPP is a single law that regulates everything relating to the party system, the electoral system, electoral institutions and the electoral process, its regulation is disproportionate; the regulation of electoral matters is substantially more developed than the regulation of the party system, which reveals several important gaps. While legal provisions cannot exhaustively delineate political party activities,² they do serve as a general standard for defining parties' institutional nature and offering incentives for their effective and democratic functioning. It is worth considering if this imbalance in the law does not to some extent explain the contradiction between the higher level of electoral institutionality and the insufficient development of the party system. It would therefore be pertinent to consider the further development of the party law in areas such as the effective rights of party members, regulation of electoral campaigns and pre-campaign periods, financing for political parties and campaigns, oversight of parties and campaigns, procedures for candidate selection and internal party elections, and regulations on geographical party presence, to highlight the most important. The 2004-2006 reforms, while signifying progress, were still insufficient.

Consistency refers to the ability of the rules to complement each other, in formal aspects—legislative drafting and technicalities—as well as in fundamental or substantive ways. The 2004-2006 reforms had, without a doubt, problems of formal consistency, explaining in large part the later need for “harmonization” of the LEPP. Beyond those, though, there are problems of fundamental consistency that impact the reforms' effectiveness. We will examine some cases that deserve mention.

All of the regulations regarding the creation of parties and minimum requirements for maintaining their legal registration affect the size of the party system. Permissive rules encourage very open systems, possibly tending toward fragmentation, while stricter rules influence the development of a smaller and more closed system. The latest electoral reforms aimed to make the rules stricter: the minimum membership was increased, the frequency of party assemblies and election of internal institutions was changed, and the electoral threshold was increased from 4 percent to 5 percent. It was hoped that the number of parties would correspondingly decrease. However, only two parties were unable to comply with the new rules, and another three were canceled after the elections. This failure is a result of some of the law's other provisions. In the case of the electoral threshold, 5 percent nationally is not effective because the election of one deputy in any district is sufficient to preserve legal registration; meanwhile, a party can choose not to participate in the elections and preserve its registration.

² In reality, there is an ample range of party activities which take place within informal institutional structures.

The regulations on the minimum membership required for a political party to preserve its registration responded both to the idea of having more demanding requirements as well as improving parties' presence among citizens. However, that reform by itself does not resolve the problem of the parties' weak geographical presence; in this area, the decentralization of JRVs was more effective. The reform also remains incomplete, as the increase in membership was not accompanied by an increase in the number of municipalities where legal organization is required, meaning that while parties increased their membership, this did not necessarily result in a greater geographical distribution or a greater presence in those members' communities.

The abbreviation of electoral campaigns as a form of reducing parties' costs and financing needs was rendered less effective by the lack of precise regulations about the pre-campaign period and by the establishment of vague limits on campaign expenditures. Assuming that a campaign will spend all available resources in the absence of clear restrictions on expenditures, the vague and general character of the limits established by the LEPP—US\$1 per registered voter starting on December 31 of the year before the elections—renders it ineffective.

Providing clear authority to the TSE for oversight of party finances and election campaigns presumes the TSE's ability to conduct this oversight, and in particular that the TSE has the enforcement mechanisms necessary to force political parties to meet accountability requirements and open themselves to external controls. The language as passed did not specify the scope of oversight—leaving this task for subsidiary regulations—and lacked an effective framework of electoral violations and infractions which, along with the appropriate penalties, would discourage political organizations from committing transgressions.

The inconsistencies in the electoral and party rules are accompanied by concerns about the consistency of the LEPP and other legal provisions pertaining to elections. Two cases can be identified in this regard: RENAP and the process of appealing the TSE's decisions. While the possible contradictions within RENAP did not affect the 2007 elections, they are of great concern for the next electoral process. It is fundamental to clarify which institution has the responsibility to establish residency or citizenship, in addition to resolving the principal problem of the double registration necessary for a person to participate in elections—registration at RENAP as well as at the Registry of Citizens—which is a fundamental institutional obstacle to electoral participation. The intention, both in the original LEPP reform and in the RENAP law, was for all citizens receiving their DPI to immediately be listed on the electoral registry; however, as this would require constitutional reforms, it remains incomplete. This means that while citizens may receive a more secure and reliable document, it will not eliminate the need to register with the TSE's Registry of Citizens.

There is also a fundamental contradiction regarding the appeals process. While the Constitution and the LEPP establish the TSE's supreme nature, all of its resolutions can be appealed, with appeals heard by the Supreme Court of Justice in the first occurrence and by the Constitutional Court in the second occurrence. While it is not in principle questionable for the TSE's decisions to be appealed in the interest of protecting citizens' constitutional rights, it is illogical that if the TSE is supreme, its resolutions are subject to the review of the Supreme Court of Justice. In practical terms, this constitutes a restriction on the TSE's supreme character and weakens its position vis-à-vis other Guatemalan institutions.

It is important to review the LEPP, from at least four basic perspectives:

1. The internal coherence of the LEPP's provisions, in terms of assuring its effectiveness.
2. The technical coherence of the electoral code, to prevent its formal aspects from generating confusion or being interpreted in contradictory ways.
3. Consistency between the LEPP and the regulations derived from it. It is important not to try to compensate for deficiencies in the law by issuing regulations, given the subsidiary nature of the latter.
4. Consistency between the electoral code and other legal provisions that affect it or are affected by it; the cases of RENAP, the appeals process and the Penal Code are only some of those which merit immediate attention.

2. Impact of reforms on the performance of electoral institutions

The ability of electoral institutions to safeguard citizens' right to elect their representatives evolves in large part from their systematic repetition of technical, administrative and logistical procedures. Citizens' confidence in the TSE is explained in good measure by the effectiveness of its organization in guaranteeing elections, an area where repetition is fundamental. This systematic repetition normally faces two obstacles: changes in a country's geographical and demographic realities and technological innovation.

With the LEPP reforms in 2004-2006, the TSE underwent the first serious change to its electoral organization procedures in its 25 years of existence: the decentralization of JRVs. Practically all of the technical, logistical and administrative structure of the TSE was built on the principle of the centralization of voting centers and JRVs in the country's 333 municipal centers (*cabeceras*). Decentralization became the touchstone for a readjustment in the scale and complexity of organizing elections in Guatemala. The TSE had to adjust the electoral map to place new voting centers, innovate by creating a new administrative unit (the municipal electoral district (*circunscripción electoral municipal*, CEM)), restructure the electoral registry based on address and not municipality, adjust the logistical scale of election day organization, substantially increase the number of election workers on election day and redesign the system for transmitting election results.

The primary factor distinguishing the 2007 elections from the five previous general elections is decentralization. But what produced decentralization? What was its impact? What lessons were learned?

Political impact of decentralization

Decentralization had two fundamental goals: facilitating citizens' access to voting, especially in rural areas, and increasing voter turnout. The second did not depend exclusively on the decision to decentralize JRVs, but was dependent on the TSE's ability to update the electoral registry. However, the expectation was that greater proximity to the polls would increase people's interest in participating. What were the results?

Decentralization favored more geographic inclusivity and an increase in the rural vote. The rural vote did behave differently than the urban vote, thereby affecting the election results. However, there was not a substantial change in the weight of the rural vote compared to the overall vote, and it is difficult to establish with certainty that decentralization influenced the turnout rate. While participation rose 2 percent compared to 2003 and has continued to grow since 1999, this is not directly related the level of decentralization. If the two were correlated, the cost-benefit ratio would be poor, as the increase in turnout has been modest in comparison with the investment required.

A complementary, and no less important, element in terms of political impact was the variations in parties' campaign strategy prompted by decentralization. Instead of a strategy based on transporting votes from different areas to the polling places in municipal centers, in 2007 parties had to develop at least some geographical presence in the 681 municipal electoral districts in rural areas. This meant a greater effort at territorial organization than in previous elections.

Technical impact of decentralization

On the technical side, decentralization impacted the responsibilities and performance of the TSE in several areas, detailed below.

New electoral geography: The need to decentralize meant changes to the electoral map and the application of criteria to place the new JRVs. This criteria needed to recognize not only strictly geographic and politico-administrative factors, but also socioeconomic variables and local accessibility. The product of this effort was the creation of the CEMs, which grouped villages and rural areas to facilitate the placement of voting centers. 681 CEMs were created, resulting in a total of 2,060 voting centers and 13,756 JRVs. This represented an increase of almost 50 percent in the number of voting centers and 35 percent in the number of JRVs. The electoral organization in rural areas was represented by 687 voting centers and 3,477 JRVs, approximately one-third of the total.

Structure of the electoral registry: The electoral registry had been based on the municipal residency cards, with citizens listed based on the municipality of residency. Decentralization made this type of organization obsolete, and required the TSE to update the electoral registry to include addresses in order to assign them to the closest JRV. While the decentralization of JRVs was only partial, the updating of the registry was a huge technical challenge; the results are mixed and deserve to be evaluated by the TSE itself. Currently, the electoral database contains two types of data, updated and non-updated, with differing levels of accuracy, in part due to the source of the data—the civil registry—and in part because there was not enough time to update the entire registry.

This opens a debate about the reliability of the Guatemalan electoral registry. While it is clear that the registry has functioned and has overcome possible objections from interested actors, there are substantive disagreements about its quality. The TSE references an audit carried out by the Organization of American States (OAS) which indicates a confidence level over 95 percent, which would make it one of the most updated and accurate in the region, but *Mirador Electoral* (Electoral Watch) conducted another audit which gave less encouraging results, with

clear differences between data for updated and non-updated voters.³ The TSE should conduct a new evaluation of the entire electoral registry and increase the pace to close the gap between updated and non-updated voters, especially given the desire to continue the decentralization process.

Increase in election workers: The growth in the number of JRVs and, to a lesser extent, the creation of CEMs, required the TSE to recruit and train at least 73,000 people to serve on departmental and municipal electoral boards, CEMs and JRVs. It was a difficult task to train all of these people, in particular given the abbreviated electoral calendar. Given the shorter calendar, the TSE opted to recruit people with prior experience, especially for the departmental and municipal boards. This was crucial for organizational effectiveness, but it explicitly disregarded the LEPP's provisions requiring election workers to be selected under criteria of gender and ethnic balance. This prompts the question: Can an electoral institution disobey a legal provision in order to guarantee the organizational effectiveness of the electoral process?

Logistical and administrative procedures: In 2003, the elections were organized in 332 locations (the municipal centers), increasing to more than 1,000 locations in 2007 (the municipal centers plus the new CEMs). The result was highly successful, as the election materials were produced and distributed in a highly efficient and effective manner and the voting centers and JRVs operated normally. The TSE's logistical mechanisms and those of its subsidiary bodies were able to cope with the increase in scale.

Transmission of results: As with logistics, the problem with transmitting results was one of scale, in this case the increase in the number of locations gathering and sending information. The result was highly successful; data flowed rapidly and securely and the TSE was capable of providing results on election night. There were no objections to the transmission system and the results were accepted by the various contenders. Two factors combined to create this outcome: the capacity of the members of the JRVs to count votes and send their totals in the predetermined manner, and the technological model supported by GBM for the rapid and secure transmission and totaling of the data.

In all, the outcome of the TSE's efforts was positive, despite initial questions about its institutional weakness. However, the path to this result was plagued with problems and uncertainty: a late start to the decentralization process, in the context of a debate about the ideal scope of the process; a delayed process of updating the electoral registry, resulting in a database containing updated and non-updated groups with differing levels of accuracy; hiring of election workers using criteria other than that legally established; and a high level of dependency on the technological capacity of third parties to transmit results. Added to this is the debate about the cost of the elections. The data available and presented in the third part of the full report indicates that in 2003, the cost of the election per registered voter was Q24.24 (\$3.25); in 2007, the cost was Q68.28 (\$9), almost three times the amount in only four years. The cost was Q113 (\$15) per vote cast. The fact that the cost tripled, while the electoral registry only increased by 18 percent and the number of JRVs by 35 percent, indicates that the budget should be reviewed.

³ It should be noted that the OAS audit has been impossible to consult, and the statistics given are from declarations by electoral officials.

All of these elements point to two substantive questions: What is the TSE's model for institutional development and what is its independent technical capacity? Responding to these questions will be important for safeguarding the next elections and will require effective leadership on the part of the Tribunal's new members.

3. Level and quality of electoral participation in 2007

Guatemala has relatively low levels of electoral participation; abstention in recent years has been close to 40 percent in the first round of the presidential election and slightly higher in the second round. There are two measures of electoral participation used in analyses: primary participation, referring to turnout as a percentage of the voting-age population, and secondary participation, referring to turnout as a percentage of registered voters. This difference is not insignificant, given that double registration is required to vote.

Primary participation is determined by various factors. These include the accuracy of census statistics on the number of people of voting age; the capacity of the civil registry system to incorporate civil data, especially births; and the capacity of the civil identification system to issue documentation. In these three areas, there are important issues: there have been technical objections to the latest census, making its information unreliable; the decentralized civil registry used until the creation of RENAP, cultural problems (including citizens' desire to register civil acts) and registration techniques mean that the system's original source is weak; and the lack of a unified national identification database, the decentralized issuance of identity documents and the low security of the documents mean that reasonable doubts exist about people's identity. As a result, it is difficult to be certain about levels of primary participation.

All of the preceding factors also influence secondary participation, as no one can register to vote without having their residency card. Two other factors also influence secondary participation: motivational barriers, referring to people's will to register in the TSE Citizens' Registry, which is a constitutional obligation, but without any enforcement mechanisms; and institutional barriers, meaning the TSE's capacity to maintain registration systems—permanent (Delegations and Sub delegations of the Citizens' Registry) and temporary (registration campaigns)—that permit citizens to register, as well as its capacity to maintain the resulting data.

An analysis of electoral participation in 2007 reveals the following characteristics:

- The growth in **secondary participation** continued, increasing 2 percent from 2003. Primary participation increased even more notably, by 15 percent, but as indicated there are doubts regarding the census figures used for this estimate. The data for secondary participation come with questions that are not currently possible to answer: How much of the electoral abstention can be explained by registered voters who have emigrated? How much is associated with problems in revising the electoral registry and failure to remove deceased or ineligible voters? The answers will only come from a thorough audit of the entire electoral registry, based on a methodology aimed at physically confirming personal data.

- **Women's participation** remained lower than men's. Women cast 47.25 percent of votes, and in no municipality did women's turnout surpass 62 percent. There are more women than men in the population, but a majority of the electoral registry is male. Lower female participation must take into account the institutional barriers to women's registration and civil documentation as revealed by some indicators. It would also be valuable to identify any behavioral differences between rural and urban women, and between women of varying ethnic backgrounds. This would allow RENAP and the TSE to design specific registration programs for the 2011 elections.
- It is difficult to measure and evaluate **indigenous participation**, as it is not measured in the registry or the turnout statistics. The third part of the full report, based on data produced by *Mirador Electoral*, identifies the 95 municipalities with more than 90 percent indigenous population. The participation in these municipalities averaged 70 percent, around 10 percent higher than the national level. However, added together, these municipalities constitute only 19.2 percent of the electoral registry and the votes cast there are one-fifth (20 percent) of all the votes cast nationwide.
- **Participation by age bracket** is also difficult to measure, as data for voter registration by age is not available. However, there is some evidence that the highest-voting population is between 26 and 45 years of age, which reveals little about the behavior of young people aged 18 to 25.
- Another variable of interest is **rural participation**, especially in evaluating the effects of the decentralization of JRVs. As indicated in the previous section, there are no grounds to relate the growth in secondary participation with decentralization; this means that it was principally associated with greater access and facilitation of the rural vote, not necessarily with increasing it. In the same way, although decentralization supports the rural vote, it does not fundamentally change its weight, with urban areas still predominant.

As seen above, the National Statistical Institute's census data is unreliable, and there are problems with the TSE's production and presentation of data on voter registration and election results. For this reason, it is difficult to design appropriate policies and actions to address the various sectors that are under-registered, including youth and indigenous people.

In the case of women, it is clear that under equal conditions—access to voting centers, appropriate documentation and registration to vote—women participate as much as or more than men. However, the continuing concern is associated with institutional barriers, including difficulties with documentation. Indigenous people show a higher tendency to vote than non-indigenous, at least based on the study of municipalities. There also could be a relationship between this higher indigenous vote and decentralization, or between a higher indigenous vote and higher rural vote, but the analysis is not yet conclusive.

There is little doubt that the double registration system is at the root of Guatemala's low levels of participation. More modern electoral registries are constructed using national civil registry databases, with adequate documentation, that automatically place all eligible voters on the electoral registry. As long as the double registration requirement remains and the system lacks creative criteria for auditing and revising the electoral registry, it will be difficult to calculate

precise levels of participation. Any technical modifications should fundamentally reflect the perspective of safeguarding citizens' political rights.

4. Political parties: electoral behavior and institutional performance

Guatemalan electoral democracy is characterized by an immature political party system. The system has problems of stability and institutionalization, reflected in the continual emergence and disappearance of political parties. Various research projects conducted by national and regional institutions, such as ASIES and FLACSO, have provided ample information describing these problems. The party system needs to be analyzed from different angles, taking into consideration the operation of the party system, the operation of parties' as institutions, and parties' electoral behavior.

A quick review of fundamental characteristics indicates that the party system remains characterized by instability. The average number of parties in non-electoral periods is 15, increasing to 18 in electoral periods, and the average life of a party is less than 10 years. Electoral volatility accompanies party fragility and is deepened by a society with low levels of partisan or ideological self-identification. These factors are mutually reinforcing, since it is hard to develop stable partisan self-identification without stable parties, and equally difficult for citizens to define themselves ideologically when there is little ideological distinction between parties.

The LEPP reforms of 2004 and 2006 in large part focused on party operations; they included modifications in the rules regarding legal registration, operations and composition of internal bodies, management of private political financing and oversight. These modifications have produced adjustments in the party system, although its effects on structure have yet to be seen. The changes in registration requirements and the electoral threshold, which sought to reduce the number of parties, did not produce the desired results. Only two parties could not comply with the new legal requirements and only three did not reach the electoral threshold. The changes in financing had more effect after the elections, but those applied during the elections were ineffective. Indicators of campaign expenditures show that the spending limit was not respected and that, while there was progress in the registration of private contributions, this was not accompanied by effective oversight on the part of the TSE.

Regarding party internal operations, while parties vary in their organizational structure and practices, they are clearly maintaining a centralized model with little territorial presence, at least formally. In general, formal organization is smaller than actual organization, and does not exceed 30 percent of the country's municipalities. This is aided by the loose legal framework that requires legal organization in only 50 out of 333 municipalities (15 percent). This explains why the increase in membership has not necessarily been accompanied by an increase in territorial presence, producing the phenomenon of members without a legal organization and therefore without explicit rights.

Issues of political inclusion, even more than centralization and low territorial activity, demonstrate the still incipient nature of party institutionalization. In Guatemala's highly diverse society, party membership includes few women and youth, and a lower percentage of

indigenous people than their proportion of the population. These low levels of inclusion could be related to parties' low territorial presence, motivational factors and citizens' lack of desire to participate, parties' lack of strategies to appeal to these sectors, and party models that do not emphasize inclusion and accept limited participation of these groups in electoral processes. Candidate selection processes deserve special mention, as parties have little ability to produce internal candidates for public office. A common practice is for parties to look for leaders in the community or self-financed candidates to run for congressional, mayoral and municipal council positions. This practice is reinforced by the contradiction between parties' modest territorial presence and their attempts to present candidates in all municipalities.

The electoral reforms did not aim to significantly alter parties' internal activities; rather they focused more on general systemic rules. However, some of the changes introduced internal modifications to the point where the party system could be considered in transition between an individual and group model. The decentralization of JRVs obligated parties to increase their territorial organization around the new rural voting centers, resulting in a larger territorial presence during elections and somewhat changing traditional strategies based on bringing votes to municipal centers. The changes to the legal requirements for preserving party registration, while achieving little reduction in the number of parties, did change parties' internal dynamics, since parties had to increase their membership. Parties also now must hold annual departmental and municipal assemblies for registration and candidate selection, thereby increasing the activity of these bodies, and seek more commitment from departmental and municipal members in order to create more permanent structures.

The political finance system is a factor that helps to explain parties' weak institutionalization. While it is formally a mixed public and private system, in practice there is a clear dependence on private funds for party operations and campaigns. This dependency makes it difficult for parties to function as independent institutions on an ongoing basis, given the tendency for private financing to concentrate on the most viable electoral options and only at the time elections take place. The concrete impact of the reforms has yet to be seen, as the public subsidies have not yet taken effect.

The most important change in parties' electoral behavior was the change in their electoral strategies. Parties, previously focused on transporting votes to municipal centers, had to create party organization in rural areas that now contained voting centers. While the decentralization was not completed in time for the previous elections, this was a significant change. A second relevant point related to parties' platform efforts. Despite the low levels of ideological identification and program formulation that characterize the Guatemalan party system, about 10 parties presented political programs in 2007, albeit with differing levels of detail. This compared favorably to 2003, when only three parties publicly presented programs, and 2001, when only one party did so.

Another central element in evaluating electoral behavior is parties' adherence to the rules. There is evidence that parties did not adhere to some provisions, for example those relating to the official beginning of campaign periods and limits on campaign expenditures. While no party formally admits to having violated these restrictions, independent monitoring clearly demonstrated that violations took place. This reflects both old-style political practices as well as loopholes in the electoral legislation, which lacks effective enforcement mechanisms.

In general, the party system and individual party operations reflect low levels of institutionality. The system is in a process of adjustment and transformation, in particular due to the 2004 and 2006 electoral reforms. These changes can be viewed in a formal sense—how parties react to the new legal provisions—as well as an informal sense—what unforeseen consequences are reforms having on party activities? This adjustment process may deepen once the new public financing system enters into effect and if a new legal reform is implemented to support these changes.

5. Political party and campaign financing

As indicated in the previous section, the finance system is formally a mix of public and private funds, but in reality is dependent on private sources. This system was very lenient for many years due to a lack of oversight. The amount of funds and their origin were unknown; state support—2 quetzals (\$.25) for each valid vote received—was insufficient given the cost of maintaining a party and participating in election campaigns. The 2004 reforms introduced important changes in the system: first, increasing state support to US\$2 per vote, while keeping the system of four annual payments; second, establishing limits on expenditures of US\$1 per registered voter; third, establishing limits on private contributions; fourth, introducing institutional modifications aimed at the transparent management of party finances; and fifth, giving the TSE the authority to oversee private financing.

In practice, however, these changes have proved insufficient. State support has not yet taken effect; since the limit on expenditures was general, it is unviable and unrealistic given the cost of elections. Parties applied the institutional modifications in an effective way, but as the elections approached, the learning process was interrupted and the modifications were not consolidated. Limits on private contributions were vague, as much of this support was self-financing or in-kind, and therefore difficult to monitor. In addition, the TSE's oversight capacity was insufficient, despite its efforts, in part due to low institutional capacity and in part due to an inadequate enforcement framework. While the reforms had the correct intent, their application is in the early stages and must be refined, both legally and institutionally.

As with practically all financing systems in the region, there is evidence of duplicitous behavior: while it is easy to prove that most parties comply with their legally established responsibilities, practices persist that are not legally reported and for which the TSE lacks oversight ability. This is demonstrated by the monitoring conducted by Citizens' Action (*Acción Ciudadana*) for *Mirador Electoral*, indicating that at least three of the larger parties surpassed the campaign spending limit during the pre-campaign period as well as the official campaign period.

Any oversight system must fulfill several basic requirements: clear and effective legal provisions, institutional capacity for their application and effective enforcement mechanisms. These three requirements are not met in Guatemala. Some legal provisions are formulated incorrectly, such as a generic expense limit for a general election really composed of five distinct elections. The necessary institutional capacity is lacking, partly due to the delays in approving the "harmonization" of the LEPP, and partly due to the TSE's delay in issuing financing regulations and its corresponding difficulty in developing the institutional capacity to monitor compliance

with those regulations. Enforcement mechanisms were not present and constitute a gap in the law, as a system of electoral infractions was never incorporated into the LEPP or the penal code.

6. Role of journalists, media and opinion polls

The relationship between politics and the media is complex and often contradictory. Parties need the media to disseminate their messages and images and to establish a public presence; meanwhile, the media make politics one of their priorities and, especially during campaigns, receives advertising revenue from parties. While parties want the media to serve as distributors of information, the media is increasingly assuming the role of oversight of political activity, both party- and government-based, creating a more adverse relationship between the media and the political system. Politics today is fundamentally an exercise in communication, and without a doubt, the media comprises a new domain of electoral competition.

Parties have various tools to take advantage of the media's role as an intermediary, including campaign advertising and communication strategies. From the parties' point of view, the debate about the media involves ensuring that the media does not favor one party over another, and that the media has some criteria for equity. This is more related to the issue of media access, rather than how the media is used in campaigns.

From the media's point of view, the question is how to reconcile their different elements: the business side, which favors accumulating revenue and therefore benefits from campaigns without oversight or spending limits; the political side, representing private political interests and visions of the state, society and political competitors; and the information side, informing citizens to help them make electoral decisions, fundamentally by informing them about proposals and what each candidate represents.

The media's role in politics is clearly growing, and the media's influence inspires worry and fear. Throughout Latin America, this phenomenon has prompted a tendency to regulate media access during election campaigns, on the premise that only regulation can ensure reasonable equity. The regulations come from the authority to set commercial rates for campaign advertising (the 2004 reforms in Guatemala established this authority) as well as the creation of free or paid blocks of airtime for parties' use, which can be privately purchased by individual parties or administered by electoral institutions. The establishment of blocks of airtime and these sorts of regulations should be seen as part of the general effort to provide equitable and competitive conditions through campaign finance reform.

There has been little debate about this matter in Guatemala, and reforms have been minor. The creation of the TSE's authority to set campaign advertising rates aims to control the inflation in advertising prices that has usually occurred during campaigns, while the establishment of blocks of media airtime for parties has not been discussed or analyzed by political decision-makers, despite being an increasingly common international practice. In general, the perception among the political elite is that the media favor some actors over others and that this is reflected in news coverage and the use of opinion polls.

The research conducted by DOSES and presented in the sixth part of the full report provides data to contextualize the previous statements:

- A survey of 68 journalists evaluated the preconception that advertisers and media owners favor certain party interests. The majority did not perceive substantial limitations on their journalistic freedom. Although some indicated that their superiors supported one candidate or another, this did not influence newsroom policy. This could indicate that there is not a direct relationship between advertisers and news programming. In the same way, the journalists surveyed did not believe polls were manipulated and classified them as objective. The environment during the electoral process was considered to be neutral and without threats or pressure from inside or outside the media.
- The preconception that media interests favor certain parties was evaluated by monitoring of the news about each contender in terms of quantity and favorability. While 2003 monitoring confirmed a clear slant against the Guatemalan Republican Front (*Frente Republicano Guatemalteco*, FRG) and its candidate, in 2007 coverage was more equal and there was not a noticeable slant. Clearly, the 14 presidential candidates did not receive equal coverage and the media gave more time to those candidates leading the opinion polls.
- A survey of Guatemalans who voted in 2007 showed that the media is the basic source of political and electoral information for citizens; citizens evaluated the media positively in terms of how elections were covered and there was no perceived favoritism. Citizens evaluated the media more positively than social institutions such as the Catholic Church and political institutions. This confidence in the media gives the media great importance in the electoral process; citizens indicated that television was the most influential medium, with newspapers and radio trailing.
- Citizens felt that opinion polls are useful and objective tools which reasonably reflect the campaign situation at a certain point. There was no convincing evidence that polls influence electoral preferences: respondents denied that polls influenced their decisions, but considered them to be helpful when making decisions. It appears that while the influence of polls is not formally acknowledged, it exists. Four out of 10 surveyed admitted that if a poll placed a candidate in the lead, this influenced the followers of the trailing candidates to consider supporting the leading candidate.

There is evidence that the creation of blocks of airtime can serve two purposes: creating an equal minimum level of access for all parties during campaigns, which favors greater competitiveness, and providing a form of direct or indirect campaign finance. If the airtime is free, it substantially reduces campaign costs. Even if it is paid, it means a certain rationalization of the cost, as times are assigned to all parties. The existence of these blocks also facilitates easier monitoring and oversight of campaign expenditures, as long as adequate methodology and resources are available.

There are differing points of view on the publication of opinion polls. While some advocate the prohibition of such publication for specific periods—anywhere from one day to one month, depending on the country—others instead advocate mandating their transparency, through the

publication of their technical design, questions and sample data. Some see prohibitions on publication as a violation of freedom of expression and the right to information; however, in some societies it is regarded as part of the “electoral silence,” a period in which campaign advertising is suspended to give voters time to reflect about their decision.

7. The electoral system and electoral districts

A topic missing from the debate about electoral reforms in recent years has been the electoral system, defined as the mechanisms that convert votes into public offices. The Guatemalan electoral system is mixed: majoritarian for the presidency and for mayoral offices, and proportional for Congress and municipal councils. Understanding how electoral systems work requires an analysis of several interrelated variables: district magnitude, the electoral threshold, the allocation formula, the type of lists, and equality of the vote. All of these are important considerations for ensuring that electoral reforms produce the desired effects. Evaluating the electoral system is a concern not only for the quality of political representation but also for the structure of the party system. Political theory and empirical research have demonstrated at length the mutual relationship between party systems and electoral systems.

The research presented in part eight of the full report revealed several important findings. First, while the system is formally “proportional for smaller parties,” the analysis concludes that effectively it is not proportional, nor does it favor smaller parties. There are various reasons for this: systems are proportional when electoral districts contain at least 6 to 10 seats, while in Guatemala the majority of districts elect 1 to 5. This means that the electoral system tends to have majoritarian effects, which are reinforced by the d’Hondt allocation formula.

Secondly, there is an excess population in each department which is not represented. This excess population is associated with the application of the population criterion for apportioning seats. In Guatemala, each seat represents 80,000 inhabitants, meaning that Congress grows on an ongoing basis as the country’s population grows; however, no seats are awarded for remainders of population in an electoral district. The application of this criterion means that slightly more than one million people remained without representation in 2007. This is important in the context of the current debate on the number of deputies, where the issue is identifying a new apportionment divisor, whether 100,000, 120,000 or 150,000 inhabitants per seat. This reform would partially resolve the problem of the size of Congress, but population growth would always mean growth in the size of Congress. However, it would have side effects such as an increase in the number of excess voters in each department who are unrepresented. While in 2007 the unrepresented population was around 10 percent, increasing the number of inhabitants per seat would also increase the excess, weakening proportionality and the representation of minority parties and resulting in a more majoritarian system.

A third important finding was the ineffectiveness of the electoral threshold, which serves as a criterion for eliminating parties that are not viable due to poor performance as well as for access to public financing. The principal reason for the ineffectiveness of the 5 percent threshold is the exception which establishes that any party obtaining a single deputy in any district is exempt from the threshold. Given the existence of many small districts, it is relatively simple for a party to obtain at least one seat. The provision is also diminished by the fact that a party can preserve

its registration by not participating in the elections, a counterincentive punishing the parties that do present themselves for the citizens' judgment.

The debate on the size of Congress

The debate about the size of Congress should not be a matter of efficacy and cost, as these do not have a causal relationship with the number of deputies and the manner of their election. Efficacy and cost correspond to different political, institutional and technical factors. There are parliaments with more members than Guatemala's which are also more efficient, just as there are parliaments with fewer members that are not any more effective. The debate should not be seen from the perspective of finding a magic number that would resolve the costs of parliamentary logistics and expense, a topic which in any case belongs in a discussion on parliamentary reform rather than electoral reform. The debate on the number of legislators should be viewed instead in terms of the representativity of the legislature, addressing the question of legitimacy.

Current legislation sets out two criteria for the size of the legislature. The geographical criterion states that each district or department should have at least one deputy, and the population criterion assigns another deputy for each 80,000 inhabitants. Using these criteria as currently applied, the current Congress has 158 deputies, but projections indicate that the 2011 Congress would have 226 deputies, growing to 249 deputies in 2015 and 273 deputies in 2019. Seeking to decrease this size by establishing a fixed number, taking population as the only criterion, would have the effect of leaving growing percentages of the population without legislative representation, as has already been indicated.

There is also the issue of constituency size and the way in which this size determines the geographical distribution of representation. As the majority of districts are small, the system is only modestly proportional. Moreover, some districts have a large number of representatives, to the detriment of others. For example, El Progreso has only one seat, while the district of Guatemala has 19. Because internal migration favors some departments over others, the population criterion can markedly affect the proportionality of the geographical distribution of legislative representation.

An assessment of the electoral system indicates, therefore, that despite being defined as a proportional system that favors small parties, the predominance of small electoral districts and the application of the d'Hondt formula tend to attenuate the system's proportionality and to favor larger parties. Likewise, the marked disproportional seat apportionment among districts means that geographical representation suffers from problems of equity that cannot be resolved without redrawing district boundaries. Addressing the size of Congress by increasing the number of inhabitants per seat could temporarily restrain the legislature's growth, but it would generate growing percentages of excess population without representation. This is not a minor issue when considering Congress from the perspective of quality of representation or representativity and not just as an issue of size.

IV. Recommendations for a second generation of reforms

Electoral reform should be tackled from multiple angles. The reform began as legal reform, which should be continued, considering both the constitution and the LEPP and related laws. However, it is also possible to reform the key institutions of electoral democracy, in particular political parties and the electoral institutions. These institutional reforms seek to modify the operations of political parties and electoral institutions, to increase the effectiveness of their strategic management and the performance of basic functions. These reforms can be achieved through internal decisions and do not necessarily require legal changes, but they do require political will and a clear institutional vision. A third dimension of reform can be called technical/procedural and refers to technical adjustments to administrative, logistical, organizational and other processes of the TSE, political parties, registration bodies or other institutions dealing with electoral democracy. All this is to say that while electoral reform in its legal dimension means reaching complex political agreements, especially given the present composition of Congress, there are other fields of action where political will and strategic vision can drive adjustment processes—reform and modernization—from within key institutions.

Latin America's experience with electoral and political reform has demonstrated that change is normally gradual and sequential. There are few cases of radical systematic change and they typically respond to crisis situations, changes to the political model, or new legal frameworks. The 2004-2006 Guatemalan reforms constituted a partial reform that focused on a few critical areas and must be further deepened. In this sense, they were just one stop on a long path which has not always had a clear destination.

Because electoral reform is an area that involves reaching political agreements, where decision-makers need to examine and regulate themselves, it is a complex issue that affects the nature and structure of power relations within the system. Moreover, political parties have strategic interests in all parts of the reform. This linkage of interests is not inherently bad for the process, but the interests should be public and transparent; as a result, although political decisions are made by elected decision-makers by virtue of their democratic mandate, their deliberations should acknowledge society's legitimate right to be informed about the scope of possible reforms.

An outline of the general principles for improving the Guatemalan electoral-political framework should include the following ideas:

- Electoral decentralization has been positive, both because it facilitates access to voting and because of the effects it has had on political party activities. It should be reinforced or, at least, not reversed.
- The political party system is in the process of adapting to a new model; many of the changes are results of the 2004-2006 reforms which aimed at stricter regulation, a strengthened financing system and the creation of oversight. However, some of the provisions governing the process must be strengthened and deepened to increase their effectiveness.

- The party system faces continuing problems of obtaining greater geographical presence and inclusion of diverse demographic groups. The strength of the party system will develop not only as a result of stability, but also requires representativity. Quality representation, in turn, cannot be achieved without a geographic presence and the inclusion of those who currently do not have access to power.
- Electoral regulations must have enforcement capacity. The introduction of incentives to drive processes of party institutionalization should be accompanied by stronger external controls and penalties for violations.
- The electoral system needs to be reviewed for its effectiveness in generating geographically equitable representation and supporting citizens' ability to exercise their political rights. This review should consider the adjustment of districts and the electoral formula, and not just the population criteria.
- Electoral participation faces fundamental problems related not only to the citizens' desire to participate—which correlates to their levels of confidence and satisfaction with democratic institutions—but also to barriers created by public institutions. Among the most important barriers are the civil registry and documentation process, electoral registration and access to polling places, the last of which has begun to be addressed by decentralization.

From these general concepts, the authors have identified a series of strategic areas as well as legal, regulatory, institutional and electoral actions that seek to provide key institutions with useful ideas for reform. The following is a compilation, by no means exhaustive, of the detailed ideas found in the different parts of this report.

Strategic Area	Actions
Supreme Electoral Tribunal	<p>Legal and regulatory actions</p> <ol style="list-style-type: none"> 1. Strengthen the TSE's supreme character in electoral legislation and related provisions, by considering elimination of the right to appeal its decisions to the Supreme Court of Justice, except where fundamental rights are concerned. 2. Strengthen the TSE's budget by delivering funds at an earlier date prior to the elections. 3. Strengthen the TSE's oversight function by further developing the relevant regulations or by writing the scope and principles into law. 4. Refine the TSE's jurisdictional function to assure the protection of the rights of political organizations and related groups.

Strategic Area	Actions
	<ol style="list-style-type: none"> 5. Create a code of electoral violations and infractions that correlates administrative penalties (which should be outlined in the LEPP) with criminal penalties. 6. Explicitly define institutional responsibility for the establishment of residency, a basic data item for the new identity document as well as the electoral registry. 7. Design and implement a training plan that allows members of subsidiary electoral bodies to be appointed in the inclusive manner contemplated by current laws. It could be helpful to provide for the selection of members earlier in the electoral calendar. 8. Review all of the regulations issued by the TSE, in particular those concerning financing, oversight, and regulation of media advertising rates.
	<p>Institutional Actions</p> <ol style="list-style-type: none"> 1. Conduct an in-depth evaluation of the TSE's work in the last elections and the impact of the electoral reforms, using the evaluation to design a reform and modernization program to prepare the TSE for the 2011 elections. 2. Strengthen the TSE's delegations and sub-delegations so that they fulfill their electoral registration functions effectively. 3. Create a directorate for electoral auditing, with exclusive oversight functions for public and private financing of parties and campaigns. 4. Convert UCADE into an electoral-political academy or give it those functions, so that it trains workers who serve on the TSE, subsidiary electoral organizations and JRVs as well as political party operatives.
	<p>Technical/Procedural Actions</p> <ol style="list-style-type: none"> 1. Conduct a comprehensive audit of the electoral registry, both identifying technical inconsistencies in

Strategic Area	Actions
	<p>the database and effectively verifying people's identity and other data.</p> <ol style="list-style-type: none"> 2. Develop processes for updating the electoral registry, focused on the non-updated portion, and with specialized programs for indigenous women and youth from rural areas. 3. Draft an election organization manual which puts all of the TSE's administrative and technical procedures in writing. 4. Develop the capacity to produce electoral statistics which provide information for the creation of strategies targeting specific excluded groups.
Electoral Participation	<p>Legal/Regulatory Actions</p> <ol style="list-style-type: none"> 1. Implement the constitutional and legal reforms necessary to eliminate double registration, such that obtaining an identity document places citizens on the electoral registry. 2. Introduce a framework for nontraditional forms of electoral participation, such as domestic observation, into electoral law.
	<p>Institutional Actions</p> <ol style="list-style-type: none"> 1. Strengthen JRV decentralization as a way of bringing the polls closer to voters. 2. Create a coordinating group composed of TSE and RENAP representatives to refine strategies for facilitating the civil and electoral documentation of members of excluded groups.
	<p>Technical/Procedural Actions</p> <ol style="list-style-type: none"> 1. Design programs for voter registration and civic education to encourage political participation among women, youth and indigenous groups. 2. Produce and publish substantive, reliable and public information on electoral participation. 3. Introduce ethnicity as a category on the electoral

Strategic Area	Actions
	<p>registry and on the personal identity document in order to produce more reliable statistics on inclusion and participation.</p>
<p>Political Party System</p>	<p>Legal/Regulatory Actions</p> <ol style="list-style-type: none"> 1. Strengthen regulations on the legal registration of political parties, by i) eliminating a parties' ability to preserve their registration by not participating in elections and ii) eliminating ways to avoid the 5 percent threshold. 2. Strengthen the political financing system by substantially increasing public support for party operations and electoral campaigns. 3. Consider strengthening parties' geographical presence, for example by increasing the minimum number of municipalities where they must have legal organizations. This number should be at least one-third (111) of the country's municipalities. 4. Create incentives for political education and training by directing public funds to those areas and by creating multiparty programs or initiatives. 5. Strengthen inclusion within parties by establishing affirmative-action mechanisms for women and indigenous groups. 6. Regulate political parties during the pre-campaign period. <p>Institutional Actions</p> <ol style="list-style-type: none"> 1. Promote the legalization of the party organization that currently functions informally, closing the gap between formal and informal organization. 2. Promote processes for strategic reflection, ideological definition and program construction as part of an effort to differentiate and institutionalize parties. 3. Promote the development of strategies for expanding parties' social base, especially those designed for women, youth and indigenous groups.

Strategic Area	Actions
	<ol style="list-style-type: none"> 4. Promote the design of strategies for institutional strengthening that plan the use of funds received from public financing.
Political Financing	<p>Legal/Regulatory Actions</p> <ol style="list-style-type: none"> 1. Strengthen the public financing system by increasing the amount of public financing available and its use for training costs and other institutional operation costs. 2. Strengthen the decentralization of public support by establishing a minimum amount that must be transferred to party branches. 3. Differentiate public support between support for party operations and support for campaign expenditures. The current system acts to support permanent party operations but does not influence the electoral campaign, due to the growing costs of the latter. 4. Regulate matters affecting pre-campaign expenditures. 5. Restore the original language relative to the modifiable nature of expenses, and fix limits on expenditure for specific campaigns and not generally for all campaigns together. 6. Establish an effective set of penalties for violations of political financing provisions. 7. Consider establishing blocks of airtime for media access during campaigns, which would be distributed in the same way as public financing: one part equal and another proportional to electoral performance. 8. Reform regulations on control and oversight of public and private financing and campaign advertising based on lessons learned from the 2007 election, and assure the Inspector General's role in the monitoring process. 9. Strengthen controls on private contributions to parties and candidates, both during and outside of

Strategic Area	Actions
	<p>campaigns, adjusting the size of allowable contributions and legally requiring the publication of donors.</p> <p>10. Strengthen authority for the financial oversight of parties, emphasizing transparency mechanisms more than restrictions.</p> <p>Institutional Actions</p> <ol style="list-style-type: none"> 1. Endow the Electoral Auditor and the Inspector General with legal and procedural mandates that allow them to conduct basic control and oversight of political organizations, assigned to the TSE by the first paragraph of article 21 of the LEPP. 2. Strengthen the institutions and mechanisms for party administration and internal financial controls to ensure their adherence to political financing rules. 3. Publicize as much as possible, in applying the principles of transparency and accountability, all legal provisions adopted in the realm of party financing, and facilitate access to all related information in the interests of citizen oversight and academic research. 4. Create a coordinating group with the Controller General's Office (<i>Contraloría General de Cuentas</i>), the Special Verification Inspectorate (<i>Inspección de Verificación Especial</i>), the Office of the Superintendent for Tax Administration (<i>Superintendencia de Administración Tributaria</i>) and other institutions, to monitor private political donations and to protect parties from the infiltration of funds from illegal groups.
Media	<p>Legal/Regulatory Actions</p> <ol style="list-style-type: none"> 1. Establish blocks of airtime as an equitable foundation for electoral competition. Their design should account for Guatemalan legal provisions on freedom of expression in determining if they would be free or paid, and whether they would be purchased directly by parties or by the TSE. 2. Avoid prohibitions on the publication of opinion

Strategic Area	Actions
	<p>polls.</p> <ol style="list-style-type: none"> 3. Create incentives for polling firms, the media and civil society to establish an independent entity to analyze the methodologies used by polling firms as well as the results of opinion polls.
	<p>Institutional Actions</p> <ol style="list-style-type: none"> 1. The media should work to provide equitable access for the various parties and candidates. 2. Monitor electoral coverage to ensure that it adheres to ethical and technical standards that govern journalistic practices. 3. Monitor the respect for the right of reply, in application of Chapter IV of the Law on Expression of Thoughts. 4. Increase training for journalists covering politics and elections to ensure their correct use of language and basic political concepts. 5. Develop the TSE’s internal capacity to monitor the media during electoral campaigns, contributing to the oversight of parties’ media expenses. 6. Strengthen the TSE’s communications management to avoid situations of conflict or tension like those in previous elections. 7. Strengthen political parties’ capacity to design and implement communications and campaign advertising strategies, through mechanisms such as the development of specific units or secretariats for the purpose.
	<p>Technical/Procedural Actions</p> <ol style="list-style-type: none"> 1. Publicize all poll data, including the questions, so that all people interested in analyzing the results have access to the primary information. 2. In drafting reports and analysis of polls, always publish the crosstabs, taking care to indicate: the size of the sample, the method used for collecting

Strategic Area	Actions
	<p>information, the dates when the poll was active, the way the poll was constructed, the procedures used to verify its integrity and to replace subjects that declined to be interviewed, and the name of the polling firm.</p>
Electoral System	<p>Political, Legal and Regulatory Actions</p> <ol style="list-style-type: none"> 1. If no constitutional reform can be enacted, consider introducing four principal changes that could improve the current electoral system, for example: increasing the divisor to 120,000 inhabitants per congressional seat; apportioning an additional seat to electoral districts with a remainder of more than 50 percent of 120,000; discarding the d'Hondt formula for seat allocation in favor of Sainte-Laguë; and introducing partially open lists (allowing voters to change the order submitted by parties). 2. If constitutional reform is possible, one option is to design single-member districts with an equal number of inhabitants which, combined with a higher population divisor, would have positive effects on the equality of the vote as well as produce a smaller Congress. 3. Another option involving constitutional reform is to design multi-member districts of medium magnitude (six to 10 deputies per district) which, combined with the four modifications in point 1, would both positively effect the equality of the vote as well as improve the proportionality of the system and generate more representativity in the relationship between deputies and the electorate. 4. Remove the issue of Congress's efficacy and cost from the agenda, in order to center the debate on the quality of representation and its geographical distribution.